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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,587	10/24/2003	Kevin D.J Bowden	13789-36US PJF/tl	7304
20988	7590	06/29/2006	EXAMINER	
OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			LOPEZ, AMADEUS SEBASTIAN	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 06/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/691,587	Applicant(s) BOWDEN, KEVIN D.J	
	Examiner Amadeus S. Lopez	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

2. The abstract of the disclosure is objected to because of the large spaces between words in line 3 and line 7 of the abstract. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5297543 to Larson et al.** With regards to claim 1, it appears as though the applicant was attempting to invoke 35 U.S.C. 112 6th paragraph to claim the syringe connector means and the multiple dose inhaler connector means as a means plus its function without setting forth the details of the structure of the elements in the claim.

However, since the applicant modified the “means for” phrase by the structure of a syringe and multiple dose inhaler, it fails the 3-prong analysis for 35 USC 112, paragraph 6, and therefore the examiner must examine the claim using a broad, reasonable interpretation for a syringe and multiple dose inhaler connector means.

4. **With regards to claim 1**, what is taught and shown by Larson et al. in Figs. 1-3 is an adapter (10) for disposition in a breathing system circuit between a source of breathable gas and a patient airway circuit (Fig. 1; Claim 1), the adapter comprising: a tube (12) with a side wall defining a breathing passage between a tube inlet (14) and a tube outlet (16); an injector conduit (26) extending laterally through the tube side wall having: a bore (passageway 30 leading to stem passageway 28; Fig. 3) ; a nozzle (outlet of stem passageway 28 as seen in Fig. 3) communicating between the bore and the passage; and an external port (formed by walls 38); wherein the port includes: multiple dose inhaler connector means (Fig. 2-3; nozzle stem engages in passageway 30) for releasably connecting the bore of the injector conduit and a multiple dose inhaler (40); and syringe connector means for releasably sealing between the bore of the injector conduit and a syringe (Since the applicant merely shows a syringe and mdi being connected to the adapter within the same external port, then since the adapter of Larson et al has a multiple dose inhaler connector means as shown in Fig. 2 then it inherently has a syringe connector means).

5. **With regards to claim 2**, what is taught and shown by Larson et al in Figs. 1-3 is an adapter (10) wherein the multiple dose inhaler connector means comprise an

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actuation abutment (where passageway 30 ends and stem passageway 28 begins) extending into the bore.

Allowable Subject Matter

6. Claims 3-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. US 2005/0279362, US 4953547, US 7059322, and US 2004/0055596.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amadeus S. Lopez whose telephone number is (571) 272-7937. The examiner can normally be reached on Mon-Fri 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Amadeus S Lopez
Examiner
Art Unit 3743
June 22, 2006

ASL


Henry Bennett
Supervisory Patent Examiner
Group 3700